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LRB094 09280 MKM 43294 a

1 AMENDMENT TO HOUSE BILL 1100

2 AMENDMENT NO. _____. Amend House Bill 1100 by replacing
3 everything after the enacting clause with the following:

4 "Article 1. General Provisions

5 Section 1-1. Short title. This Act may be cited as the
6 Payday Loan Reform Act.

7 Section 1-5. Purpose and construction. The purpose of this
8 Act is to protect consumers who enter into payday loans and to
9 regulate the lenders of payday loans. This Act shall be
10 construed as a consumer protection law for all purposes. This
11 Act shall be liberally construed to effectuate its purpose.

12 Section 1-10. Definitions. As used in this Act:

13 "Check" means a "negotiable instrument", as defined in
14 Article 3 of the Uniform Commercial Code, that is drawn on a
15 financial institution.

16 "Commercially reasonable method of verification" means a
17 database certified by the Division as effective in verifying
18 that a proposed loan agreement is permissible under this Act,
19 or, in the absence of the Division's certification, any
20 reasonably reliable written verification by the consumer
21 concerning (i) whether the consumer has any outstanding payday
22 loans, (ii) the principal amount of those outstanding payday

1 loans, and (iii) whether any payday loans have been paid in
2 full by the consumer in the preceding 7 days.

3 "Consumer" means any natural person who, singly or jointly
4 with another consumer, enters into a loan.

5 "Division" means the Division of Financial Institutions of
6 the Department of Financial and Professional Regulation.

7 "Director" means the Director of the Division of Financial
8 Institutions of the Department of Financial and Professional
9 Regulation.

10 "Gross monthly income" means monthly income as
11 demonstrated by official documentation of the income,
12 including, but not limited to, a pay stub or a receipt
13 reflecting payment of government benefits, for the period 30
14 days prior to the date on which the loan is made.

15 "Lender" and "licensee" mean any person or entity,
16 including any affiliate or subsidiary of a lender or licensee,
17 that offers or makes a payday loan, buys a whole or partial
18 interest in a payday loan, arranges a payday loan for a third
19 party, or acts as an agent for a third party in making a payday
20 loan, regardless of whether approval, acceptance, or
21 ratification by the third party is necessary to create a legal
22 obligation for the third party, and includes any other person
23 or entity if the Division determines that the person or entity
24 is engaged in a transaction that is in substance a disguised
25 payday loan or a subterfuge for the purpose of avoiding this
26 Act.

27 "Loan agreement" means a written agreement between a lender
28 and consumer to make a loan to the consumer, regardless of
29 whether any loan proceeds are actually paid to the consumer on
30 the date on which the loan agreement is made.

31 "Member of the military" means a person serving in the
32 armed forces of the United States, the Illinois National Guard,
33 or any reserve component of the armed forces of the United
34 States. "Member of the military" includes those persons engaged

1 in (i) active duty, (ii) training or education under the
2 supervision of the United States preliminary to induction into
3 military service, or (iii) a period of active duty with the
4 State of Illinois under Title 10 or Title 32 of the United
5 States Code pursuant to order of the President or the Governor
6 of the State of Illinois.

7 "Outstanding balance" means the total amount owed by the
8 consumer on a loan to a lender, including all principal,
9 finance charges, fees, and charges of every kind.

10 "Payday loan" or "loan" means a loan with a finance charge
11 exceeding an annual percentage rate of 36%, including any
12 transaction conducted via any medium whatsoever, including,
13 but not limited to, paper, facsimile, Internet, or telephone,
14 in which:

15 (1) a lender accepts a check dated on the date it was
16 written and agrees to hold it for a period of days before
17 deposit or presentment, or accepts a check dated subsequent
18 to the date it was written and agrees to hold the check for
19 deposit;

20 (2) a lender accepts authorization to debit a
21 consumer's bank account; or

22 (3) a lender accepts an interest in a consumer's wages
23 as security for the loan.

24 "Principal amount" means the amount received by the
25 consumer from the lender due and owing on a loan, excluding any
26 finance charges, interest, fees, or other loan-related
27 charges.

28 "Rollover" means to renew, amend, or extend a loan beyond
29 its original term.

30 Section 1-15. Applicability.

31 (a) Except as otherwise provided in this Section, this Act
32 applies to any lender that offers or makes a payday loan to a
33 consumer in Illinois.

1 (b) The provisions of this Act apply to any person or
2 entity that seeks to evade its applicability by any device,
3 subterfuge, or pretense whatsoever.

4 (c) Retail sellers who cash checks incidental to a retail
5 sale and who charge no more than \$2 per check for the service
6 are exempt from the provisions of this Act.

7 (d) Banks, savings banks, savings and loan associations,
8 credit unions, and insurance companies organized, chartered,
9 or holding a certificate of authority to do business under the
10 laws of this State or any other state or under the laws of the
11 United States are exempt from the provisions of this Act.

12 (e) A lender, as defined in Section 1-10, that is an agent
13 for a bank, savings bank, savings and loan association, credit
14 union, or insurance company for the purpose of brokering,
15 selling, or otherwise offering payday loans made by the bank,
16 savings bank, savings and loan association, credit union, or
17 insurance company shall be subject to all of the provisions of
18 this Act, except those provisions related to finance charges.

19 Article 2. Payday Loans

20 Section 2-5. Loan terms.

21 (a) Without affecting the right of a consumer to prepay at
22 any time without cost or penalty, no payday loan may have a
23 minimum term of less than 13 days.

24 (b) No payday loan may be made to a consumer if the loan
25 would result in the consumer being indebted to one or more
26 payday lenders for a period in excess of 45 consecutive days.
27 Except as provided under Section 2-40, if a consumer has or has
28 had loans outstanding for a period in excess of 45 consecutive
29 days, no payday lender may offer or make a loan to the consumer
30 for at least 7 consecutive days after the date on which the
31 outstanding balance of all payday loans made during the 45-day
32 period is paid in full. For purposes of this subsection, the

1 term "consecutive days" means a series of continuous calendar
2 days in which the consumer has an outstanding balance on one or
3 more payday loans. However, if a payday loan is made to a
4 consumer within 6 days or less after the outstanding balance of
5 all loans is paid in full, those days are counted as
6 "consecutive days" for purposes of this subsection.

7 (c) No lender may make a payday loan to a consumer if the
8 total principal amount of the loan, when combined with the
9 principal amount of all of the consumer's other outstanding
10 payday loans, exceeds \$1,000 or 25% of the consumer's gross
11 monthly income, whichever is less.

12 (d) No payday loan may be made to a consumer who has an
13 outstanding balance on 2 payday loans.

14 (e) No lender may charge more than \$16 per \$100 loaned on
15 any payday loan over the term of the loan.

16 (f) A lender may not take or attempt to take an interest in
17 any of the consumer's personal property to secure a payday loan
18 other than the items described in the definition of "payday
19 loan" in Section 1-10.

20 (g) A consumer has the right to redeem a check or any other
21 item described in the definition of payday loan under Section
22 1-10 issued in connection with a payday loan from the lender
23 holding the check or other item at any time before the payday
24 loan becomes payable by paying the full amount of the check or
25 other item, less the unearned portion of the finance charge
26 calculated on a simple interest basis.

27 Section 2-10. Permitted fees.

28 (a) If there are insufficient funds to pay a check,
29 Automatic Clearing House (ACH) debit, or any other item
30 described in the definition of payday loan under Section 1-10
31 on the day of presentment, a lender may charge a fee not to
32 exceed \$25. Only one such fee may be collected by the lender
33 with respect to a particular check, ACH debit, or item even if

1 it has been deposited and returned more than once. A lender
2 shall present the check, ACH debit, or other item described in
3 the definition of payday loan under Section 1-10 for payment
4 not more than twice. A fee charged under this subsection (a) is
5 a lender's exclusive charge for late payment.

6 (b) When a consumer repays a payday loan in full before its
7 due date, the lender must refund the finance charges to the
8 consumer on a simple interest basis as of the time of
9 repayment.

10 (c) Except for the finance charges described in Section 2-5
11 and as specifically allowed by this Section, a lender may not
12 impose on a consumer any additional finance charges, interest,
13 fees, or charges of any sort for any purpose.

14 Section 2-15. Verification.

15 (a) Before entering into a loan agreement with a consumer,
16 a lender must use a commercially reasonable method of
17 verification to verify that the proposed loan agreement is
18 permissible under this Act.

19 (b) Within 6 months after the effective date of this Act,
20 the Division shall certify that one or more consumer reporting
21 services are commercially reasonable methods of verification.
22 Upon certifying that a consumer reporting service is a
23 commercially reasonable method of verification, the Division
24 shall:

25 (1) provide reasonable notice to all licensees
26 identifying the commercially reasonable methods of
27 verification that are available; and

28 (2) immediately upon certification, require each
29 licensee to use a commercially reasonable method of
30 verification as a means of complying with subsection (a) of
31 this Section.

32 (c) Except as otherwise provided in this Section, all
33 information contained in the certified database regarding any

1 consumer is strictly confidential and is exempt from disclosure
2 under the Freedom of Information Act.

3 (d) Notwithstanding any other provision of law to the
4 contrary, a consumer seeking a payday loan may make a direct
5 inquiry to the certified database provider to request a more
6 detailed explanation of the basis for a database's
7 determination that the consumer is ineligible for a new payday
8 loan.

9 (e) In certifying a commercially reasonable method of
10 verification, the Division shall ensure that the database:

11 (1) provides real-time access through an Internet
12 connection or, if real-time access through an Internet
13 connection becomes unavailable to lenders due to a database
14 provider's technical problems incurred by the database
15 provider, through alternative verification mechanisms,
16 including, but not limited to, verification by telephone;

17 (2) is accessible to the Division and to licensees in
18 order to ensure compliance with this Act and in order to
19 provide any other information that the Division deems
20 necessary;

21 (3) requires licensees to input whatever information
22 is required by the Division;

23 (4) maintains a real-time copy of the required
24 reporting information that is available to the Division at
25 all times and is the property of the Division;

26 (5) provides licensees only with a statement that a
27 consumer is eligible or ineligible for a new payday loan
28 and a description of the reason for the determination; and

29 (6) contains safeguards to ensure that all information
30 contained in the database regarding consumers is kept
31 strictly confidential.

32 (f) The licensee shall update the database by inputting all
33 information required under item (3) of subsection (e):

34 (1) on the same day that a payday loan is made;

1 (2) on the same day that a consumer elects a repayment
2 plan, as provided in Section 2-40; and

3 (3) on the same day that a consumer's payday loan is
4 paid in full.

5 (g) A licensee may rely on the information contained in the
6 certified database as accurate and is not subject to any
7 administrative penalty or liability as a result of relying on
8 inaccurate information contained in the database.

9 (h) The certified consumer reporting service shall
10 indemnify the licensee against all claims and actions arising
11 from illegal or willful or wanton acts on the part of the
12 certified consumer reporting service.

13 Section 2-17. Consumer reporting services qualification
14 and bonding.

15 (a) Each consumer reporting service shall have at all times
16 a net worth of not less than \$1,000,000 calculated in
17 accordance with generally accepted accounting principles.

18 (b) Each application for certification under this Act shall
19 be accompanied by a surety bond acceptable to the Division in
20 the amount of \$1,000,000. The surety bond shall be in a form
21 satisfactory to the Division and shall run to the State of
22 Illinois for the benefit of any claimants against the consumer
23 reporting service to secure the faithful performance of its
24 obligations under this Act. The aggregate liability of the
25 surety may exceed the principal sum of the bond. Claimants
26 against the consumer reporting service may themselves bring
27 suit directly on the surety bond or the Division may bring suit
28 on behalf of claimants, either in one action or in successive
29 actions.

30 (c) The surety bond shall remain in effect until
31 cancellation, which may occur only after 90 days' written
32 notice to the Division. Cancellation shall not affect any
33 liability incurred or accrued during that period.

1 (d) The surety bond shall remain in place for 5 years after
2 the consumer reporting service ceases operation in the State.

3 (e) The surety bond proceeds and any cash or other
4 collateral posted as security by a consumer reporting service
5 shall be deemed by operation of law to be held in trust for any
6 claimants under this Act in the event of the bankruptcy of the
7 consumer reporting service.

8 (f) To the extent that any indemnity or fine exceeds the
9 amount of the surety bond described under this Section, the
10 consumer reporting service shall be liable for that amount.

11 (g) Each application for certification under this Act shall
12 be accompanied by a nonrefundable investigation fee of \$2,500,
13 together with an initial certification fee of \$1,000.

14 (h) On or before March 1 of each year, each consumer
15 reporting service qualified under this Section shall pay to the
16 Division a certification fee in the amount of \$1,000.

17 Section 2-20. Required disclosures.

18 (a) Before a payday loan is made, a lender shall deliver to
19 the consumer a pamphlet prepared by the Director that:

20 (1) explains, in simple English and Spanish, all of the
21 consumer's rights and responsibilities in a payday loan
22 transaction;

23 (2) includes a toll-free number to the Director's
24 office to handle concerns or provide information about
25 whether a lender is licensed, whether complaints have been
26 filed with the Director, and the resolution of those
27 complaints; and

28 (3) provides information regarding the availability of
29 debt management services.

30 (b) Lenders shall provide consumers with a written
31 agreement on a form specified or approved by the Director that
32 may be kept by the consumer. The written agreement must include
33 the following information in English and in the language in

1 which the loan was negotiated:

2 (1) the name and address of the lender making the
3 payday loan, and the name and title of the individual
4 employee who signs the agreement on behalf of the lender;

5 (2) an itemization of the finance charges to be paid by
6 the consumer;

7 (3) disclosures required by the federal Truth in
8 Lending Act and the information required by the Federal
9 Consumer Credit Protection Act;

10 (4) disclosures required under any other State law;

11 (5) a clear description of the consumer's payment
12 obligations under the loan;

13 (6) the following statement, in at least 14-point bold
14 type face: "You cannot be prosecuted in criminal court to
15 collect this loan.". The information required to be
16 disclosed under this subdivision (6) must be conspicuously
17 disclosed in the loan document and shall be located
18 immediately preceding the signature of the consumer; and

19 (7) the following statement, in at least 14-point bold
20 type face:

21 "WARNING: This loan is not intended to meet long-term
22 financial needs. This loan should be used only to meet
23 short-term cash needs. The cost of your loan may be higher
24 than loans offered by other lending institutions. This loan
25 is regulated by the Department of Financial and
26 Professional Regulation."

27 (c) The following notices in English and Spanish, as well
28 as other languages in which a significant amount of payday loan
29 business is conducted, must be conspicuously posted by a lender
30 in each location of a business providing payday loans:

31 (1) A notice that informs consumers that the lender
32 cannot use the criminal process against a consumer to
33 collect any payday loan.

34 (2) The schedule of all finance charges to be charged

1 on loans with an example of the amounts that would be
2 charged on a \$100 loan payable in 13 days and a \$400 loan
3 payable in 30 days, giving the corresponding annual
4 percentage rate.

5 (3) In one-inch bold type, a notice to the public in
6 the lending area of each business location containing the
7 following statement:

8 "WARNING: This loan is not intended to meet long-term
9 financial needs. This loan should be used only to meet
10 short-term cash needs. The cost of your loan may be higher
11 than loans offered by other lending institutions. This loan
12 is regulated by the Department of Financial and
13 Professional Regulation."

14 (4) In one-inch bold type, a notice to the public in
15 the lending area of each business location containing the
16 following statement:

17 "INTEREST-FREE REPAYMENT PLAN: If you still owe on one
18 or more payday loans after 35 days, you are entitled to
19 enter into a repayment plan. The repayment plan will give
20 you at least 56 days to repay your loan in installments
21 with no additional finance charges, interest, fees, or
22 other charges of any kind."

23 Section 2-25. Right to cancel future payment obligations. A
24 consumer may cancel future payment obligations on a payday
25 loan, without cost or finance charges, no later than the end of
26 the second business day immediately following the day on which
27 the payday loan was made. To cancel future payment obligations
28 on a payday loan, the consumer must inform the lender that the
29 consumer wants to cancel the future payment obligations on the
30 payday loan and must return the uncashed proceeds, check or
31 cash, in an amount equal to the principal amount of the loan.

32 Section 2-30. Rollovers prohibited. Rollover of a payday

1 loan by any lender is prohibited.

2 Section 2-35. Proceeds and payments.

3 (a) A lender may issue the proceeds of a loan in the form
4 of a check drawn on the lender's bank account, in cash, by
5 money order, by debit card, or by electronic funds transfer.
6 When the proceeds are issued in the form of a check drawn on
7 the lender's bank account, by money order, or by electronic
8 funds transfer, the lender may not charge a fee for cashing the
9 check, money order, or electronic funds transfer. When the
10 proceeds are issued in cash, the lender must provide the
11 consumer with written verification of the cash transaction and
12 shall maintain a record of the transaction for at least 3
13 years.

14 (b) After each payment made in full or in part on any loan,
15 the lender shall give the consumer making the payment either a
16 signed, dated receipt or a signed, computer-generated receipt
17 showing the amount paid and the balance due on the loan.

18 (c) Before a loan is made, the lender must provide the
19 consumer, or each consumer if there is more than one, with a
20 copy of the loan documents described in Section 2-20.

21 (d) The holder or assignee of any loan agreement or of any
22 check written by a consumer in connection with a payday loan
23 takes the loan agreement or check subject to all claims and
24 defenses of the consumer against the maker.

25 (e) Upon receipt of a check from a consumer for a loan, the
26 lender must immediately stamp the back of the check with an
27 endorsement that states: "This check is being negotiated as
28 part of a loan under the Payday Loan Reform Act, and any holder
29 of this check takes it subject to all claims and defenses of
30 the maker."

31 (f) Loan payments may be electronically debited from the
32 consumer's bank account. Except as provided by federal law, the
33 lender must obtain prior written approval from the consumer.

1 (g) A consumer may prepay on a loan in increments of \$5 or
2 more at any time without cost or penalty.

3 (h) A loan is made on the date on which a loan agreement is
4 signed by both parties, regardless of whether the lender gives
5 any moneys to the consumer on that date.

6 Section 2-40. Repayment plan.

7 (a) At the time a payday loan is made and every time a
8 consumer enters a lender's place of business and makes a
9 payment, the lender must provide the consumer with a separate
10 written notice signed by the consumer of the consumer's right
11 to request a repayment plan. The written notice must comply
12 with the requirements of subsection (c).

13 (b) The loan agreement must include the following language
14 in at least 14-point bold type: IF YOU STILL OWE ON ONE OR MORE
15 PAYDAY LOANS AFTER 35 DAYS, YOU ARE ENTITLED TO ENTER INTO A
16 REPAYMENT PLAN. THE REPAYMENT PLAN WILL GIVE YOU AT LEAST 56
17 DAYS TO REPAY YOUR LOAN IN INSTALLMENTS WITH NO ADDITIONAL
18 FINANCE CHARGES, INTEREST, FEES, OR OTHER CHARGES OF ANY KIND.

19 (c) At the time a payday loan is made, on the first page of
20 the loan agreement and in a separate document signed by the
21 consumer, the following shall be inserted in at least 14-point
22 bold type: I UNDERSTAND THAT IF I STILL OWE ON ONE OR MORE
23 PAYDAY LOANS AFTER 35 DAYS, I AM ENTITLED TO ENTER INTO A
24 REPAYMENT PLAN THAT WILL GIVE ME AT LEAST 56 DAYS TO REPAY THE
25 LOAN IN INSTALLMENTS WITH NO ADDITIONAL FINANCE CHARGES,
26 INTEREST, FEES, OR OTHER CHARGES OF ANY KIND.

27 (d) If the consumer has or has had one or more payday loans
28 outstanding for 35 consecutive days, any payday loan
29 outstanding on the 35th consecutive day shall be payable under
30 the terms of a repayment plan as provided for in this Section,
31 so long as the consumer requests the repayment plan either
32 orally or in writing. As to any loan that becomes eligible for
33 a repayment plan under this subsection, the consumer has until

1 28 days after the default date of the loan to request a
2 repayment plan. Within 48 hours after the request for a
3 repayment plan is made, the lender must prepare the repayment
4 plan agreement and both parties must execute the agreement.
5 Execution of the repayment plan agreement shall be made in the
6 same manner in which the loan was made and shall be evidenced
7 in writing.

8 (e) The terms of the repayment plan for a payday loan must
9 include the following:

10 (1) The lender may not impose any charge on the
11 consumer for requesting or using a repayment plan.
12 Performance of the terms of the repayment plan extinguishes
13 the consumer's obligation on the loan.

14 (2) No lender shall charge the consumer any finance
15 charges, interest, fees, or other charges of any kind,
16 except a fee for insufficient funds, as provided under
17 Section 2-10.

18 (3) The consumer shall be allowed to repay the loan in
19 at least 4 equal installments with at least 13 days between
20 installments, provided that the term of the repayment plan
21 does not exceed 90 days. The first payment under the
22 repayment plan shall not be due before at least 13 days
23 after the repayment plan is signed by both parties. The
24 consumer may prepay the amount due under the repayment plan
25 at any time, without charge or penalty.

26 (4) The length of time between installments may be
27 extended by the parties so long as the total period of
28 repayment does not exceed 90 days. Any such modification
29 must be in writing and signed by both parties.

30 (f) Notwithstanding any provision of law to the contrary, a
31 lender is prohibited from making a payday loan to a consumer
32 who has a payday loan outstanding under a repayment plan and
33 for at least 14 days after the outstanding balance of the loan
34 under the repayment plan and the outstanding balance of all

1 other payday loans outstanding during the term of the repayment
2 plan are paid in full.

3 (g) A lender may not accept postdated checks for payments
4 under a repayment plan.

5 (h) Notwithstanding any provision of law to the contrary, a
6 lender may agree to enter into a repayment plan with a consumer
7 at any time. If a consumer is eligible for a repayment plan
8 under subsection (d), any repayment agreement constitutes a
9 repayment plan under this Section and all provisions of this
10 Section apply to that agreement.

11 Section 2-45. Default.

12 (a) No legal proceeding of any kind, including, but not
13 limited to, a lawsuit or arbitration, may be filed or initiated
14 against a consumer to collect on a payday loan until 28 days
15 after the default date of the loan, or, in the case of a payday
16 loan under a repayment plan, for 28 days after the default date
17 under the terms of the repayment plan.

18 (b) Upon and after default, a lender shall not charge the
19 consumer any finance charges, interest, fees, or charges of any
20 kind, other than the insufficient fund fee described in Section
21 2-10.

22 Section 2-50. Practices concerning members of the
23 military.

24 (a) A lender may not garnish the wages or salaries of a
25 consumer who is a member of the military.

26 (b) In addition to any rights and obligations provided
27 under the federal Soldiers' and Sailors' Civil Relief Act, a
28 lender shall suspend and defer collection activity against a
29 consumer who is a member of the military and who has been
30 deployed to a combat or combat support posting for the duration
31 of the deployment.

32 (c) A lender may not knowingly contact the military chain

1 of command of a consumer who is a member of the military in an
2 effort to collect on a payday loan.

3 (d) Lenders must honor the terms of any repayment plan that
4 they have entered into with any consumer, including a repayment
5 agreement negotiated through military counselors or
6 third-party credit counselors.

7 Section 2-55. Information and reporting.

8 (a) A licensee shall keep and use books, accounts, and
9 records that will enable the Director to determine if the
10 licensee is complying with the provisions of this Act and
11 maintain any other records as required by the Director.

12 (b) A licensee shall collect and maintain information
13 annually for a report that shall disclose in detail and under
14 appropriate headings:

15 (1) the total number of payday loans made during the
16 preceding calendar year;

17 (2) the total number of payday loans outstanding as of
18 December 31 of the preceding calendar year;

19 (3) the minimum, maximum, and average dollar amount of
20 payday loans made during the preceding calendar year;

21 (4) the average annual percentage rate and the average
22 term of payday loans made during the preceding calendar
23 year; and

24 (5) the total number of payday loans paid in full, the
25 total number of loans that went into default, and the total
26 number of loans written off during the preceding calendar
27 year.

28 The report shall be verified by the oath or affirmation of
29 the owner, manager, or president of the licensee. The report
30 must be filed with the Director no later than March 1 of the
31 year following the year for which the report discloses the
32 information specified in this subsection (b). The Director may
33 impose upon the licensee a fine of \$250 per day for each day

1 beyond the filing deadline that the report is not filed.

2 (c) A licensee shall file a copy of the loan agreement and
3 the fee schedule described in Section 2-20 with the Director
4 before the date of commencement of business at each location,
5 at the time any changes are made to the documents or schedule,
6 and annually thereafter upon renewal of the license. These
7 documents shall be available to interested parties and to the
8 general public.

9 (d) No later than July 31 of the second year following the
10 effective date of this Act, the Division shall compile
11 aggregate data in the form of a biennial report of the payday
12 lending industry and shall make the report available to the
13 Governor, the General Assembly, and the general public.

14 Section 2-60. Advertising.

15 (a) Advertising for loans transacted under this Act may not
16 be false, misleading, or deceptive. Payday loan advertising, if
17 it states a rate or amount of charge for a loan, must state the
18 rate as an annual percentage rate. No licensee may advertise in
19 any manner so as to indicate or imply that its rates or charges
20 for loans are in any way recommended, approved, set, or
21 established by the State government or by this Act.

22 (b) If any advertisement to which this Section applies
23 states the amount of any installment payment, the dollar amount
24 of any finance charge, or the number of installments or the
25 period of repayment, then the advertisement shall state all of
26 the following items:

27 (1) The amount of the loan.

28 (2) The number, amount, and due dates or period of
29 payments scheduled to repay the indebtedness if the credit
30 is extended.

31 (3) The finance charge expressed as an annual
32 percentage rate.

1 Article 3. Licensure

2 Section 3-3. Licensure requirement.

3 (a) Except as provided in subsection (b), on and after the
4 effective date of this Act, a person or entity acting as a
5 payday lender must be licensed by the Division as provided in
6 this Article.

7 (b) A person or entity acting as a payday lender who is
8 licensed on the effective date of this Act under the Consumer
9 Installment Loan Act need not comply with subsection (a) until
10 the Division takes action on the person's or entity's
11 application for a payday loan license. The application must be
12 submitted to the Division within 9 months after the effective
13 date of this Act. If the application is not submitted within 9
14 months after the effective date of this Act, the person or
15 entity acting as a payday lender is subject to subsection (a).

16 Section 3-5. Licensure.

17 (a) A license to make a payday loan shall state the
18 address, including city and state, at which the business is to
19 be conducted and shall state fully the name of the licensee.
20 The license shall be conspicuously posted in the place of
21 business of the licensee and shall not be transferable or
22 assignable.

23 (b) An application for a license shall be in writing and in
24 a form prescribed by the Director. The Director may not issue
25 or renew a payday loan license unless and until the following
26 findings are made:

27 (1) that the financial responsibility, experience,
28 character, and general fitness of the applicant are such as
29 to command the confidence of the public and to warrant the
30 belief that the business will be operated lawfully and
31 fairly and within the provisions and purposes of this Act;

32 (2) that the location has conformed to local zoning

1 laws with respect to location, structural, aesthetic, or
2 other requirements; and

3 (3) that the applicant has submitted such other
4 information as the Director may deem necessary.

5 (c) A license shall be issued for no longer than one year,
6 and no renewal of a license may be provided if a licensee has
7 substantially violated this Act and has not cured the violation
8 to the satisfaction of the Division.

9 (d) A licensee shall appoint, in writing, the Director as
10 attorney-in-fact upon whom all lawful process against the
11 licensee may be served with the same legal force and validity
12 as if served on the licensee. A copy of the written
13 appointment, duly certified, shall be filed in the office of
14 the Director, and a copy thereof certified by the Director
15 shall be sufficient evidence to subject a licensee to
16 jurisdiction in a court of law. This appointment shall remain
17 in effect while any liability remains outstanding in this State
18 against the licensee. When summons is served upon the Director
19 as attorney-in-fact for a licensee, the Director shall
20 immediately notify the licensee by registered mail, enclosing
21 the summons and specifying the hour and day of service.

22 (e) A licensee must pay an annual fee of \$1,000. In
23 addition to the license fee, the reasonable expense of any
24 examination or hearing by the Director under any provisions of
25 this Act shall be borne by the licensee. If a licensee fails to
26 renew its license by December 31, its license shall
27 automatically expire; however, the Director, in his or her
28 discretion, may reinstate an expired license upon:

29 (1) payment of the annual fee within 30 days of the
30 date of expiration; and

31 (2) proof of good cause for failure to renew.

32 (f) Not more than one place of business shall be maintained
33 under the same license, but the Director may issue more than
34 one license to the same licensee upon compliance with all the

1 provisions of this Act governing issuance of a single license.
2 The location, except those locations already in existence as of
3 June 1, 2005, may not be within one mile of a horse race track
4 subject to the Illinois Horse Racing Act of 1975, within one
5 mile of a facility at which gambling is conducted under the
6 Riverboat Gambling Act, within one mile of the location at
7 which a riverboat subject to the Riverboat Gambling Act docks,
8 or within one mile of any State of Illinois or United States
9 military base or naval installation.

10 (g) No licensee shall conduct the business of making loans
11 under this Act within any office, suite, room, or place of
12 business in which any other business is solicited or engaged in
13 unless the other business is licensed by the Division or, in
14 the opinion of the Director, the other business would not be
15 contrary to the best interests of consumers and is authorized
16 by the Director in writing.

17 (h) If the Director finds, after due notice and hearing, or
18 opportunity for hearing, that a licensee or an officer, agent,
19 employee, or representative of a licensee, has violated any of
20 the provisions of this Act, has failed to comply with the
21 rules, instructions, or orders promulgated by the Director, has
22 failed or refused to make its reports to the Director, or has
23 furnished false information to the Director, the Director may
24 issue an order revoking or suspending the right of the licensee
25 and the officer, agent, employee, or representative to do
26 business in this State as a licensee. No revocation,
27 suspension, or surrender of any license shall relieve the
28 licensee from civil or criminal liability for acts committed
29 before or after the revocation, suspension, or surrender.

30 (i) The Director shall maintain a list of licensees that
31 shall be available to interested consumers and lenders and the
32 public. The Director shall establish a toll-free number whereby
33 consumers may obtain information about licensees. The Director
34 shall also establish a complaint process under which an

1 aggrieved consumer may file a complaint against a licensee or
2 non-licensee who violates any provision of this Act. Subject to
3 the Illinois Administrative Procedure Act, the Director may
4 hold hearings upon the request of a party to the complaint,
5 make findings of fact, conclusions of law, issue cease and
6 desist orders, refer the matter to the appropriate law
7 enforcement agency for prosecution under this Act, and suspend
8 or revoke a license granted under this Act. All proceedings
9 shall be open to the public.

10 Section 3-10. Closing of business; surrender of license. At
11 least 10 days before a licensee ceases operations, closes the
12 business, or files for bankruptcy, the licensee shall:

13 (1) Notify the Division of its intended action in
14 writing.

15 (2) With the exception of filing for bankruptcy,
16 surrender its license to the Director for cancellation. The
17 surrender of the license shall not affect the licensee's
18 civil or criminal liability for acts committed before or
19 after the surrender or entitle the licensee to a return of
20 any part of the annual license fee.

21 (3) Notify the Division of the location where the
22 books, accounts, contracts, and records will be
23 maintained.

24 The accounts, books, records, and contracts shall be
25 maintained and serviced by the licensee, by another licensee
26 under this Act, or by the Division.

27 The Division shall have the authority to conduct
28 examinations of the books, records, and loan documents at any
29 time.

30 Article 4. Administrative Provisions

31 Section 4-5. Prohibited acts. A licensee or unlicensed

1 person or entity making payday loans may not commit, or have
2 committed on behalf of the licensee or unlicensed person or
3 entity, any of the following acts:

4 (1) Threatening to use or using the criminal process in
5 this or any other state to collect on the loan.

6 (2) Using any device or agreement that would have the
7 effect of charging or collecting more fees or charges than
8 allowed by this Act, including, but not limited to,
9 entering into a different type of transaction with the
10 consumer.

11 (3) Engaging in unfair, deceptive, or fraudulent
12 practices in the making or collecting of a payday loan.

13 (4) Charging to cash a check representing the proceeds
14 of the payday loan.

15 (5) Using or attempting to use the check provided by
16 the consumer in a payday loan as collateral for a
17 transaction not related to a payday loan.

18 (6) Knowingly accepting payment in whole or in part of
19 a payday loan through the proceeds of another payday loan
20 provided by any licensee.

21 (7) Knowingly accepting any security, other than that
22 specified in the definition of payday loan in Section 1-10,
23 for a payday loan.

24 (8) Charging any fees or charges other than those
25 specifically authorized by this Act.

26 (9) Threatening to take any action against a consumer
27 that is prohibited by this Act or making any misleading or
28 deceptive statements regarding the payday loan or any
29 consequences thereof.

30 (10) Making a misrepresentation of a material fact by
31 an applicant for licensure in obtaining or attempting to
32 obtain a license.

33 (11) Including any of the following provisions in loan
34 documents required by subsection (b) of Section 2-20:

1 (A) a confession of judgment clause;

2 (B) a waiver of the right to a jury trial, if
3 applicable, in any action brought by or against a
4 consumer, unless the waiver is included in an
5 arbitration clause allowed under subparagraph (C) of
6 this paragraph (11);

7 (C) a mandatory arbitration clause that is
8 oppressive, unfair, unconscionable, or substantially
9 in derogation of the rights of consumers;

10 (D) any assignment of or order for payment of wages
11 or other compensation for services;

12 (E) a provision in which the consumer agrees not to
13 assert any claim or defense arising out of the
14 contract.

15 (12) Selling any insurance of any kind whether or not
16 sold in connection with the making or collecting of a
17 payday loan.

18 (13) Taking any power of attorney.

19 (14) Taking any security interest in real estate.

20 (15) Collecting a delinquency or collection charge on
21 any installment regardless of the period in which it
22 remains in default.

23 (16) Collecting treble damages on an amount owing from
24 a payday loan.

25 (17) Refusing, or intentionally delaying or
26 inhibiting, the consumer's right to enter into a repayment
27 plan pursuant to this Act.

28 (18) Charging for, or attempting to collect,
29 attorney's fees, court costs, or arbitration costs
30 incurred in connection with the collection of a payday
31 loan.

32 (19) Entering into a wage assignment agreement with a
33 consumer in connection with a payday loan.

34 (20) Making a loan in violation of this Act.

1 (21) Garnishing the wages or salaries of a consumer who
2 is a member of the military.

3 (22) Failing to suspend or defer collection activity
4 against a consumer who is a member of the military and who
5 has been deployed to a combat or combat-support posting.

6 (23) Contacting the military chain of command of a
7 consumer who is a member of the military in an effort to
8 collect on a payday loan.

9 Section 4-10. Enforcement and remedies.

10 (a) The remedies provided in this Act are cumulative and
11 apply to persons or entities subject to this Act.

12 (b) Any material violation of this Act, including the
13 commission of an act prohibited under Section 4-5, constitutes
14 a violation of the Consumer Fraud and Deceptive Business
15 Practices Act.

16 (c) If any provision of the written agreement described in
17 subsection (b) of Section 2-20 violates this Act, then that
18 provision is unenforceable against the consumer.

19 Section 4-15. Bonding.

20 (a) A person or entity engaged in making payday loans under
21 this Act shall post a bond to the Division in the amount of
22 \$50,000 for each location where loans will be made, up to a
23 maximum bond amount of \$500,000.

24 (b) A bond posted under subsection (a) must continue in
25 effect for the period of licensure and for 3 additional years
26 if the bond is still available. The bond must be available to
27 pay damages and penalties to a consumer harmed by a violation
28 of this Act.

29 Section 4-20. Preemption of administrative rules. Any
30 administrative rule promulgated prior to the effective date of
31 this Act by the Division regarding payday loans is preempted.

1 Section 4-25. Reporting of violations. The Division shall
2 report to the Attorney General all material violations of this
3 Act of which it becomes aware.

4 Section 4-30. Rulemaking; industry review.

5 (a) The Division may adopt reasonable rules to implement
6 and administer this Act.

7 (b) Within 6 months after the effective of this Act, the
8 Department of Financial and Professional Regulation shall
9 promulgate reasonable rules regarding the issuance of payday
10 loans by banks, savings banks, savings and loan associations,
11 credit unions, and insurance companies. These rules shall be
12 consistent with this Act and shall be limited in scope to the
13 actual products and services offered by lenders governed by
14 this Act.

15 (c) After the effective date of this Act, the Division
16 shall, over a 3-year period, conduct a study of the payday loan
17 industry to determine the impact and effectiveness of this Act.
18 The Division shall report its findings to the General Assembly
19 within 3 months of the third anniversary of the effective date
20 of this Act. The study shall determine the effect of this Act
21 on the protection of consumers in this State and on the fair
22 and reasonable regulation of the payday loan industry. The
23 study shall include, but shall not be limited to, an analysis
24 of the ability of the industry to use private reporting tools
25 that:

26 (1) ensure substantial compliance with this Act,
27 including real time reporting of outstanding payday loans;
28 and

29 (2) provide data to the Division in an appropriate form
30 and with appropriate content to allow the Division to
31 adequately monitor the industry.

32 The report of the Division shall, if necessary, identify

1 and recommend specific amendments to this Act to further
2 protect consumers and to guarantee fair and reasonable
3 regulation of the payday loan industry.

4 Section 4-35. Judicial review. All final administrative
5 decisions of the Division under this Act are subject to
6 judicial review pursuant to the provisions of the
7 Administrative Review Law and any rules adopted pursuant
8 thereto.

9 Section 4-40. No waivers. There shall be no waiver of any
10 provision of this Act.

11 Section 4-45. Superiority of Act. To the extent this Act
12 conflicts with any other State financial regulation laws, this
13 Act is superior and supersedes those laws for the purposes of
14 regulating payday loans in Illinois, provided that nothing
15 herein shall apply to any lender that is a bank, savings bank,
16 savings and loan association, credit union, or insurance
17 company organized, chartered, or holding a certificate of
18 authority to do business under the laws of this State or any
19 other state or under the laws of the United States.

20 Section 4-50. Severability. The provisions of this Act are
21 severable under Section 1.31 of the Statute on Statutes.

22 Article 90. Amendatory Provisions

23 Section 90-3. The Freedom of Information Act is amended by
24 changing Section 7 as follows:

25 (5 ILCS 140/7) (from Ch. 116, par. 207)

26 Sec. 7. Exemptions.

27 (1) The following shall be exempt from inspection and

1 copying:

2 (a) Information specifically prohibited from
3 disclosure by federal or State law or rules and regulations
4 adopted under federal or State law.

5 (b) Information that, if disclosed, would constitute a
6 clearly unwarranted invasion of personal privacy, unless
7 the disclosure is consented to in writing by the individual
8 subjects of the information. The disclosure of information
9 that bears on the public duties of public employees and
10 officials shall not be considered an invasion of personal
11 privacy. Information exempted under this subsection (b)
12 shall include but is not limited to:

13 (i) files and personal information maintained with
14 respect to clients, patients, residents, students or
15 other individuals receiving social, medical,
16 educational, vocational, financial, supervisory or
17 custodial care or services directly or indirectly from
18 federal agencies or public bodies;

19 (ii) personnel files and personal information
20 maintained with respect to employees, appointees or
21 elected officials of any public body or applicants for
22 those positions;

23 (iii) files and personal information maintained
24 with respect to any applicant, registrant or licensee
25 by any public body cooperating with or engaged in
26 professional or occupational registration, licensure
27 or discipline;

28 (iv) information required of any taxpayer in
29 connection with the assessment or collection of any tax
30 unless disclosure is otherwise required by State
31 statute;

32 (v) information revealing the identity of persons
33 who file complaints with or provide information to
34 administrative, investigative, law enforcement or

1 penal agencies; provided, however, that identification
2 of witnesses to traffic accidents, traffic accident
3 reports, and rescue reports may be provided by agencies
4 of local government, except in a case for which a
5 criminal investigation is ongoing, without
6 constituting a clearly unwarranted per se invasion of
7 personal privacy under this subsection; and

8 (vi) the names, addresses, or other personal
9 information of participants and registrants in park
10 district, forest preserve district, and conservation
11 district programs.

12 (c) Records compiled by any public body for
13 administrative enforcement proceedings and any law
14 enforcement or correctional agency for law enforcement
15 purposes or for internal matters of a public body, but only
16 to the extent that disclosure would:

17 (i) interfere with pending or actually and
18 reasonably contemplated law enforcement proceedings
19 conducted by any law enforcement or correctional
20 agency;

21 (ii) interfere with pending administrative
22 enforcement proceedings conducted by any public body;

23 (iii) deprive a person of a fair trial or an
24 impartial hearing;

25 (iv) unavoidably disclose the identity of a
26 confidential source or confidential information
27 furnished only by the confidential source;

28 (v) disclose unique or specialized investigative
29 techniques other than those generally used and known or
30 disclose internal documents of correctional agencies
31 related to detection, observation or investigation of
32 incidents of crime or misconduct;

33 (vi) constitute an invasion of personal privacy
34 under subsection (b) of this Section;

1 (vii) endanger the life or physical safety of law
2 enforcement personnel or any other person; or

3 (viii) obstruct an ongoing criminal investigation.

4 (d) Criminal history record information maintained by
5 State or local criminal justice agencies, except the
6 following which shall be open for public inspection and
7 copying:

8 (i) chronologically maintained arrest information,
9 such as traditional arrest logs or blotters;

10 (ii) the name of a person in the custody of a law
11 enforcement agency and the charges for which that
12 person is being held;

13 (iii) court records that are public;

14 (iv) records that are otherwise available under
15 State or local law; or

16 (v) records in which the requesting party is the
17 individual identified, except as provided under part
18 (vii) of paragraph (c) of subsection (1) of this
19 Section.

20 "Criminal history record information" means data
21 identifiable to an individual and consisting of
22 descriptions or notations of arrests, detentions,
23 indictments, informations, pre-trial proceedings, trials,
24 or other formal events in the criminal justice system or
25 descriptions or notations of criminal charges (including
26 criminal violations of local municipal ordinances) and the
27 nature of any disposition arising therefrom, including
28 sentencing, court or correctional supervision,
29 rehabilitation and release. The term does not apply to
30 statistical records and reports in which individuals are
31 not identified and from which their identities are not
32 ascertainable, or to information that is for criminal
33 investigative or intelligence purposes.

34 (e) Records that relate to or affect the security of

1 correctional institutions and detention facilities.

2 (f) Preliminary drafts, notes, recommendations,
3 memoranda and other records in which opinions are
4 expressed, or policies or actions are formulated, except
5 that a specific record or relevant portion of a record
6 shall not be exempt when the record is publicly cited and
7 identified by the head of the public body. The exemption
8 provided in this paragraph (f) extends to all those records
9 of officers and agencies of the General Assembly that
10 pertain to the preparation of legislative documents.

11 (g) Trade secrets and commercial or financial
12 information obtained from a person or business where the
13 trade secrets or information are proprietary, privileged
14 or confidential, or where disclosure of the trade secrets
15 or information may cause competitive harm, including all
16 information determined to be confidential under Section
17 4002 of the Technology Advancement and Development Act.
18 Nothing contained in this paragraph (g) shall be construed
19 to prevent a person or business from consenting to
20 disclosure.

21 (h) Proposals and bids for any contract, grant, or
22 agreement, including information which if it were
23 disclosed would frustrate procurement or give an advantage
24 to any person proposing to enter into a contractor
25 agreement with the body, until an award or final selection
26 is made. Information prepared by or for the body in
27 preparation of a bid solicitation shall be exempt until an
28 award or final selection is made.

29 (i) Valuable formulae, computer geographic systems,
30 designs, drawings and research data obtained or produced by
31 any public body when disclosure could reasonably be
32 expected to produce private gain or public loss. The
33 exemption for "computer geographic systems" provided in
34 this paragraph (i) does not extend to requests made by news

1 media as defined in Section 2 of this Act when the
2 requested information is not otherwise exempt and the only
3 purpose of the request is to access and disseminate
4 information regarding the health, safety, welfare, or
5 legal rights of the general public.

6 (j) Test questions, scoring keys and other examination
7 data used to administer an academic examination or
8 determined the qualifications of an applicant for a license
9 or employment.

10 (k) Architects' plans, engineers' technical
11 submissions, and other construction related technical
12 documents for projects not constructed or developed in
13 whole or in part with public funds and the same for
14 projects constructed or developed with public funds, but
15 only to the extent that disclosure would compromise
16 security, including but not limited to water treatment
17 facilities, airport facilities, sport stadiums, convention
18 centers, and all government owned, operated, or occupied
19 buildings.

20 (l) Library circulation and order records identifying
21 library users with specific materials.

22 (m) Minutes of meetings of public bodies closed to the
23 public as provided in the Open Meetings Act until the
24 public body makes the minutes available to the public under
25 Section 2.06 of the Open Meetings Act.

26 (n) Communications between a public body and an
27 attorney or auditor representing the public body that would
28 not be subject to discovery in litigation, and materials
29 prepared or compiled by or for a public body in
30 anticipation of a criminal, civil or administrative
31 proceeding upon the request of an attorney advising the
32 public body, and materials prepared or compiled with
33 respect to internal audits of public bodies.

34 (o) Information received by a primary or secondary

1 school, college or university under its procedures for the
2 evaluation of faculty members by their academic peers.

3 (p) Administrative or technical information associated
4 with automated data processing operations, including but
5 not limited to software, operating protocols, computer
6 program abstracts, file layouts, source listings, object
7 modules, load modules, user guides, documentation
8 pertaining to all logical and physical design of
9 computerized systems, employee manuals, and any other
10 information that, if disclosed, would jeopardize the
11 security of the system or its data or the security of
12 materials exempt under this Section.

13 (q) Documents or materials relating to collective
14 negotiating matters between public bodies and their
15 employees or representatives, except that any final
16 contract or agreement shall be subject to inspection and
17 copying.

18 (r) Drafts, notes, recommendations and memoranda
19 pertaining to the financing and marketing transactions of
20 the public body. The records of ownership, registration,
21 transfer, and exchange of municipal debt obligations, and
22 of persons to whom payment with respect to these
23 obligations is made.

24 (s) The records, documents and information relating to
25 real estate purchase negotiations until those negotiations
26 have been completed or otherwise terminated. With regard to
27 a parcel involved in a pending or actually and reasonably
28 contemplated eminent domain proceeding under Article VII
29 of the Code of Civil Procedure, records, documents and
30 information relating to that parcel shall be exempt except
31 as may be allowed under discovery rules adopted by the
32 Illinois Supreme Court. The records, documents and
33 information relating to a real estate sale shall be exempt
34 until a sale is consummated.

1 (t) Any and all proprietary information and records
2 related to the operation of an intergovernmental risk
3 management association or self-insurance pool or jointly
4 self-administered health and accident cooperative or pool.

5 (u) Information concerning a university's adjudication
6 of student or employee grievance or disciplinary cases, to
7 the extent that disclosure would reveal the identity of the
8 student or employee and information concerning any public
9 body's adjudication of student or employee grievances or
10 disciplinary cases, except for the final outcome of the
11 cases.

12 (v) Course materials or research materials used by
13 faculty members.

14 (w) Information related solely to the internal
15 personnel rules and practices of a public body.

16 (x) Information contained in or related to
17 examination, operating, or condition reports prepared by,
18 on behalf of, or for the use of a public body responsible
19 for the regulation or supervision of financial
20 institutions or insurance companies, unless disclosure is
21 otherwise required by State law.

22 (y) Information the disclosure of which is restricted
23 under Section 5-108 of the Public Utilities Act.

24 (z) Manuals or instruction to staff that relate to
25 establishment or collection of liability for any State tax
26 or that relate to investigations by a public body to
27 determine violation of any criminal law.

28 (aa) Applications, related documents, and medical
29 records received by the Experimental Organ Transplantation
30 Procedures Board and any and all documents or other records
31 prepared by the Experimental Organ Transplantation
32 Procedures Board or its staff relating to applications it
33 has received.

34 (bb) Insurance or self insurance (including any

1 intergovernmental risk management association or self
2 insurance pool) claims, loss or risk management
3 information, records, data, advice or communications.

4 (cc) Information and records held by the Department of
5 Public Health and its authorized representatives relating
6 to known or suspected cases of sexually transmissible
7 disease or any information the disclosure of which is
8 restricted under the Illinois Sexually Transmissible
9 Disease Control Act.

10 (dd) Information the disclosure of which is exempted
11 under Section 30 of the Radon Industry Licensing Act.

12 (ee) Firm performance evaluations under Section 55 of
13 the Architectural, Engineering, and Land Surveying
14 Qualifications Based Selection Act.

15 (ff) Security portions of system safety program plans,
16 investigation reports, surveys, schedules, lists, data, or
17 information compiled, collected, or prepared by or for the
18 Regional Transportation Authority under Section 2.11 of
19 the Regional Transportation Authority Act or the St. Clair
20 County Transit District under the Bi-State Transit Safety
21 Act.

22 (gg) Information the disclosure of which is restricted
23 and exempted under Section 50 of the Illinois Prepaid
24 Tuition Act.

25 (hh) Information the disclosure of which is exempted
26 under the State Officials and Employees Ethics Act.

27 (ii) Beginning July 1, 1999, information that would
28 disclose or might lead to the disclosure of secret or
29 confidential information, codes, algorithms, programs, or
30 private keys intended to be used to create electronic or
31 digital signatures under the Electronic Commerce Security
32 Act.

33 (jj) Information contained in a local emergency energy
34 plan submitted to a municipality in accordance with a local

1 emergency energy plan ordinance that is adopted under
2 Section 11-21.5-5 of the Illinois Municipal Code.

3 (kk) Information and data concerning the distribution
4 of surcharge moneys collected and remitted by wireless
5 carriers under the Wireless Emergency Telephone Safety
6 Act.

7 (ll) Vulnerability assessments, security measures, and
8 response policies or plans that are designed to identify,
9 prevent, or respond to potential attacks upon a community's
10 population or systems, facilities, or installations, the
11 destruction or contamination of which would constitute a
12 clear and present danger to the health or safety of the
13 community, but only to the extent that disclosure could
14 reasonably be expected to jeopardize the effectiveness of
15 the measures or the safety of the personnel who implement
16 them or the public. Information exempt under this item may
17 include such things as details pertaining to the
18 mobilization or deployment of personnel or equipment, to
19 the operation of communication systems or protocols, or to
20 tactical operations.

21 (mm) Maps and other records regarding the location or
22 security of a utility's generation, transmission,
23 distribution, storage, gathering, treatment, or switching
24 facilities.

25 (nn) Law enforcement officer identification
26 information or driver identification information compiled
27 by a law enforcement agency or the Department of
28 Transportation under Section 11-212 of the Illinois
29 Vehicle Code.

30 (oo) Records and information provided to a residential
31 health care facility resident sexual assault and death
32 review team or the Residential Health Care Facility
33 Resident Sexual Assault and Death Review Teams Executive
34 Council under the Residential Health Care Facility

1 Resident Sexual Assault and Death Review Team Act.

2 (pp) Information contained in the certified database
3 maintained by the Division of Financial Institutions of the
4 Department of Financial and Professional Regulation in
5 accordance with Section 2-15 of the Payday Loan Reform Act.

6 (2) This Section does not authorize withholding of
7 information or limit the availability of records to the public,
8 except as stated in this Section or otherwise provided in this
9 Act.

10 (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01; 92-281,
11 eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff. 7-11-02; 93-43,
12 eff. 7-1-03; 93-209, eff. 7-18-03; 93-237, eff. 7-22-03;
13 93-325, eff. 7-23-03, 93-422, eff. 8-5-03; 93-577, eff.
14 8-21-03; 93-617, eff. 12-9-03.)

15 Section 90-5. The Financial Institutions Code is amended by
16 changing Sections 4 and 6 as follows:

17 (20 ILCS 1205/4) (from Ch. 17, par. 104)

18 Sec. 4. As used in this Act:

19 (a) "Department" means the Department of Financial
20 Institutions.

21 (b) "Director" means the Director of Financial
22 Institutions.

23 (c) "Person" means any individual, partnership, joint
24 venture, trust, estate, firm, corporation, association or
25 cooperative society or association.

26 (d) "Financial institutions" means ambulatory and
27 community currency exchanges, credit unions, guaranteed credit
28 unions, persons engaged in the business of transmitting money
29 to foreign countries or buying and selling foreign money,
30 pawnshops' societies, title insuring or guaranteeing companies,
31 and persons engaged in the business of making loans of \$800 or
32 less, all as respectively defined in the laws referred to in

1 Section 6 of this Act. The term includes sales finance
2 agencies, as defined in the "Sales Finance Agency Act", enacted
3 by the 75th General Assembly.

4 (e) "Payday loan" has the meaning ascribed to that term in
5 the Payday Loan Reform Act.

6 (Source: Laws 1967, p. 2211.)

7 (20 ILCS 1205/6) (from Ch. 17, par. 106)

8 Sec. 6. In addition to the duties imposed elsewhere in this
9 Act, the Department has the following powers:

10 (1) To exercise the rights, powers and duties vested by law
11 in the Auditor of Public Accounts under "An Act to provide for
12 the incorporation, management and regulation of pawners'
13 societies and limiting the rate of compensation to be paid for
14 advances, storage and insurance on pawns and pledges and to
15 allow the loaning of money upon personal property", approved
16 March 29, 1899, as amended.

17 (2) To exercise the rights, powers and duties vested by law
18 in the Auditor of Public Accounts under "An Act in relation to
19 the definition, licensing and regulation of community currency
20 exchanges and ambulatory currency exchanges, and the operators
21 and employees thereof, and to make an appropriation therefor,
22 and to provide penalties and remedies for the violation
23 thereof", approved June 30, 1943, as amended.

24 (3) To exercise the rights, powers, and duties vested by
25 law in the Auditor of Public Accounts under "An Act in relation
26 to the buying and selling of foreign exchange and the
27 transmission or transfer of money to foreign countries",
28 approved June 28, 1923, as amended.

29 (4) To exercise the rights, powers, and duties vested by
30 law in the Auditor of Public Accounts under "An Act to provide
31 for and regulate the business of guaranteeing titles to real
32 estate by corporations", approved May 13, 1901, as amended.

33 (5) To exercise the rights, powers and duties vested by law

1 in the Department of Insurance under "An Act to define,
2 license, and regulate the business of making loans of eight
3 hundred dollars or less, permitting an interest charge thereon
4 greater than otherwise allowed by law, authorizing and
5 regulating the assignment of wages or salary when taken as
6 security for any such loan or as consideration for a payment of
7 eight hundred dollars or less, providing penalties, and to
8 repeal Acts therein named", approved July 11, 1935, as amended.

9 (6) To administer and enforce "An Act to license and
10 regulate the keeping and letting of safety deposit boxes,
11 safes, and vaults, and the opening thereof, and to repeal a
12 certain Act therein named", approved June 13, 1945, as amended.

13 (7) Whenever the Department is authorized or required by
14 law to consider some aspect of criminal history record
15 information for the purpose of carrying out its statutory
16 powers and responsibilities, then, upon request and payment of
17 fees in conformance with the requirements of Section 2605-400
18 of the Department of State Police Law (20 ILCS 2605/2605-400),
19 the Department of State Police is authorized to furnish,
20 pursuant to positive identification, such information
21 contained in State files as is necessary to fulfill the
22 request.

23 (8) To administer the Payday Loan Reform Act.

24 (Source: P.A. 91-239, eff. 1-1-00.)

25 Section 90-10. The Consumer Installment Loan Act is amended
26 by changing Section 21 as follows:

27 (205 ILCS 670/21) (from Ch. 17, par. 5427)

28 Sec. 21. Application of act. This Act does not apply to any
29 person, partnership, association, limited liability company,
30 or corporation doing business under and as permitted by any law
31 of this State or of the United States relating to banks,
32 savings and loan associations, savings banks, credit unions, or

1 licensees under the Residential Mortgage License Act for
2 residential mortgage loans made pursuant to that Act. This Act
3 does not apply to business loans. This Act does not apply to
4 payday loans.

5 (Source: P.A. 90-437, eff. 1-1-98.)

6 Section 90-15. The Consumer Fraud and Deceptive Business
7 Practices Act is amended by changing Section 2Z as follows:

8 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

9 Sec. 2Z. Violations of other Acts. Any person who knowingly
10 violates the Automotive Repair Act, the Home Repair and
11 Remodeling Act, the Dance Studio Act, the Physical Fitness
12 Services Act, the Hearing Instrument Consumer Protection Act,
13 the Illinois Union Label Act, the Job Referral and Job Listing
14 Services Consumer Protection Act, the Travel Promotion
15 Consumer Protection Act, the Credit Services Organizations
16 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call
17 Services Consumer Protection Act, the Telephone Solicitations
18 Act, the Illinois Funeral or Burial Funds Act, the Cemetery
19 Care Act, the Safe and Hygienic Bed Act, the Pre-Need Cemetery
20 Sales Act, the High Risk Home Loan Act, the Payday Loan Reform
21 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
22 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use
23 Tax Act, the Electronic Mail Act, paragraph (6) of subsection
24 (k) of Section 6-305 of the Illinois Vehicle Code, or the
25 Automatic Contract Renewal Act commits an unlawful practice
26 within the meaning of this Act.

27 (Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04; 93-950,
28 eff. 1-1-05.)

29 Article 99. Effective Date

30 Section 99. Effective date. This Act takes effect 90 days

1 after becoming law.".